

BASICS OF AIRPORT NOISE LAW

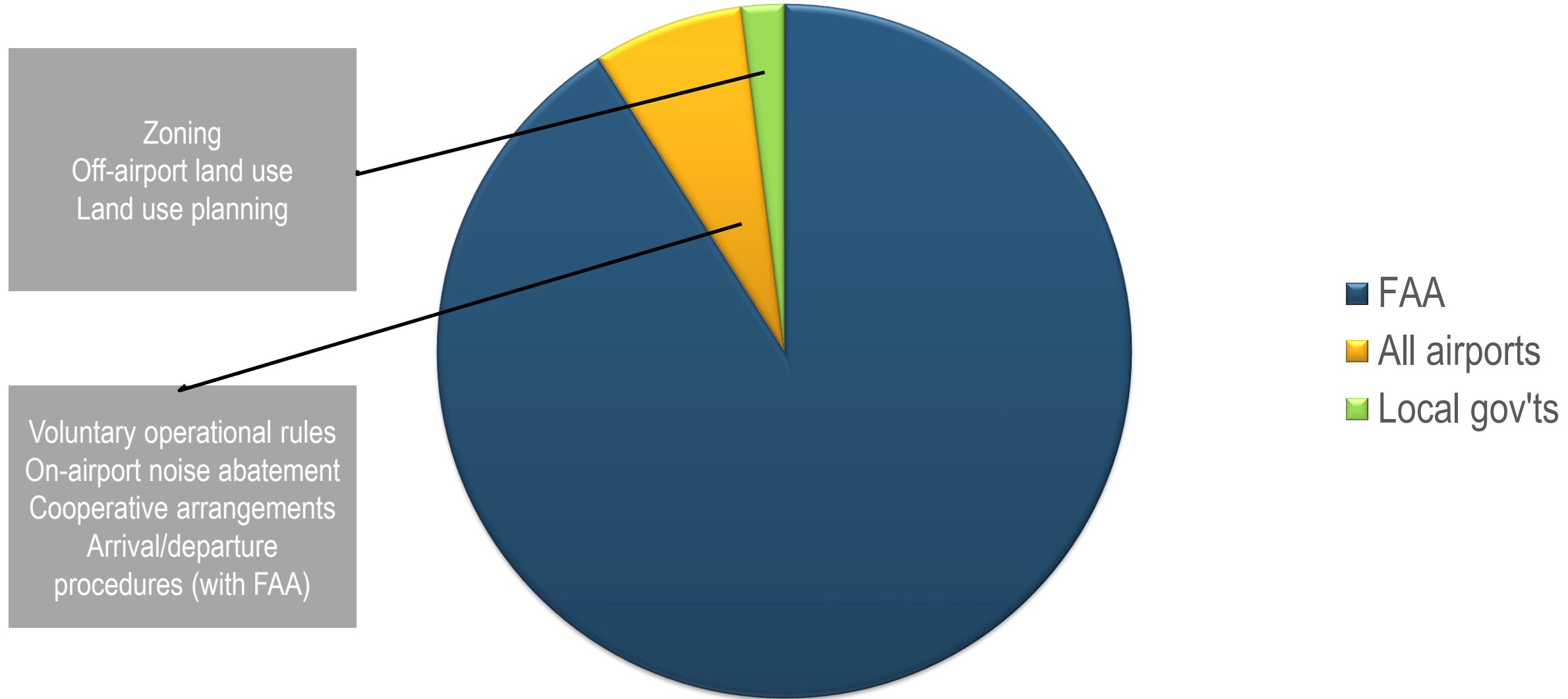
Peter J. Kirsch
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Basic legal principles

- No airport sponsor has complete control over its airport
- Airports are subject to complex federal oversight
- Rules that apply to other government functions do not necessarily apply here
- FAA has plenary authority over flight tracks



Relative authority over noise



Primary sources of law

- U.S. Constitution
 - Supremacy Clause
 - Commerce Clause
- Statutes



U.S. Constitution

SUPREMACY CLAUSE

- Federal law trumps state and local law

COMMERCE CLAUSE

- State and local governments cannot unduly burden or
- discriminate against interstate commerce
- Any airport restrictions must be:
 - Reasonable under the circumstances
 - Carefully tailored to local needs
 - Based upon data which support the need



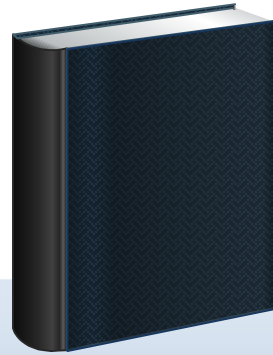
Legal Authority - Statutes



Legal Authority - Regulations



Part 36
Noise
Standards



Part 91
Operating
Limits



Part 150
Land Use
Planning



Part 161
Noise and
Access
Restrictions

Aviation Safety & Noise Abatement Act / Part 150

- Establishes a single system of measuring noise
- Requires FAA to issue regulations on "noise compatibility planning"
- Part 150 regulations
 - Selected the A-weighted sound level (dBA)
 - Selected the Day-Night-Average Sound Level (DNL or CNEL)
 - Defined a voluntary noise compatibility planning process



Airport Noise and Capacity Act / Part 161

- Required complete phase-out of Stage 2 aircraft over 75,000 pounds by end of 1999
- Required FAA to establish regulations regarding analysis, notice, and approval of airport noise and access restrictions
 - Part 161
- Note: remaining Stage 2 phased out in later statute



Part 161: airport noise and access restrictions

- Federal program for reviewing noise and access restrictions affecting stage 2 and 3 aircraft
 - Stage 2 restrictions are moot as of 2016
- FAA approval required for most restrictions as of 2016
- Comprehensive analysis required
 - Evidence of noise problem
 - Impacts analysis
 - Benefit-cost analysis
- Encourages voluntary agreements

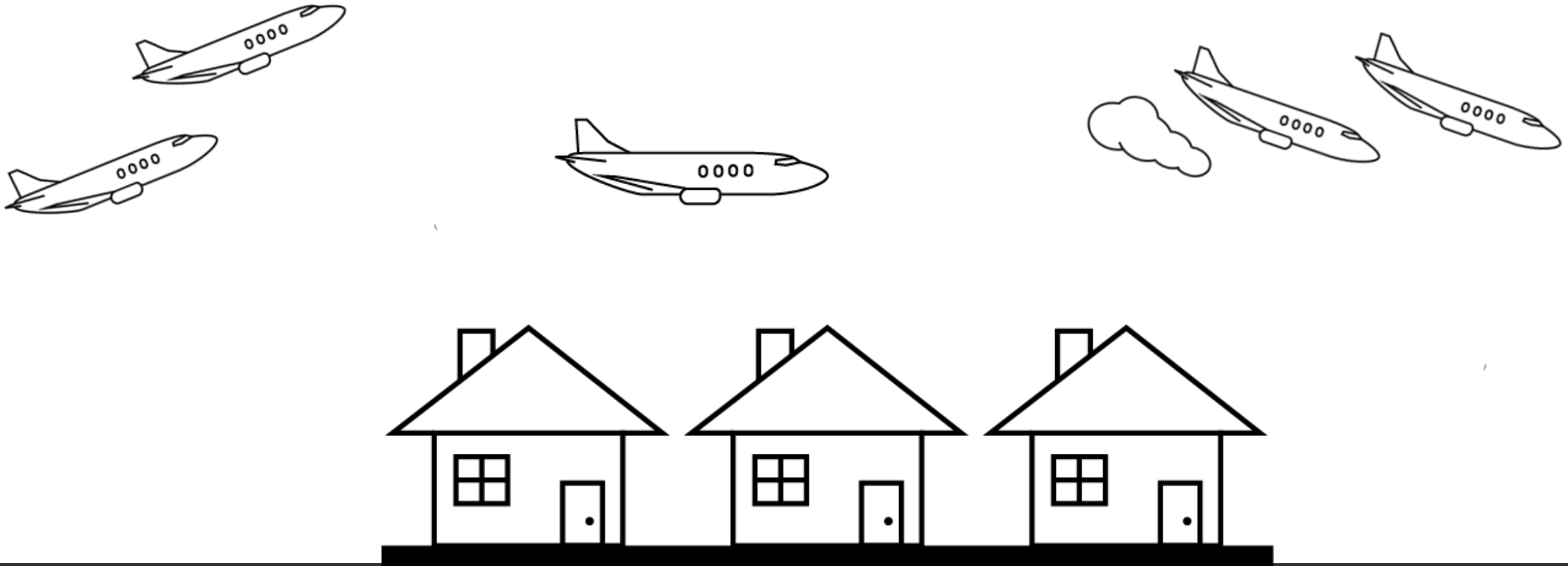


Effect of Part 161

- Many, many pre-1990 restrictions
 - Many California airports in particular
- NO new restrictions on stage 3 aircraft since 1990
- ONE new restriction on stage 2 aircraft since 1990
- Only small handful of unsuccessful or abandoned attempts



Regulating arrival, departure noise





Airspace, flight tracks and procedures

- By law, FAA manages all airspace throughout the United States
- FAA air traffic control directs commercial air traffic based on designated routes
- SFO, other local airports do not control where or when aircraft fly.
- ANCA (part 161) does not apply



Why so many new flight tracks

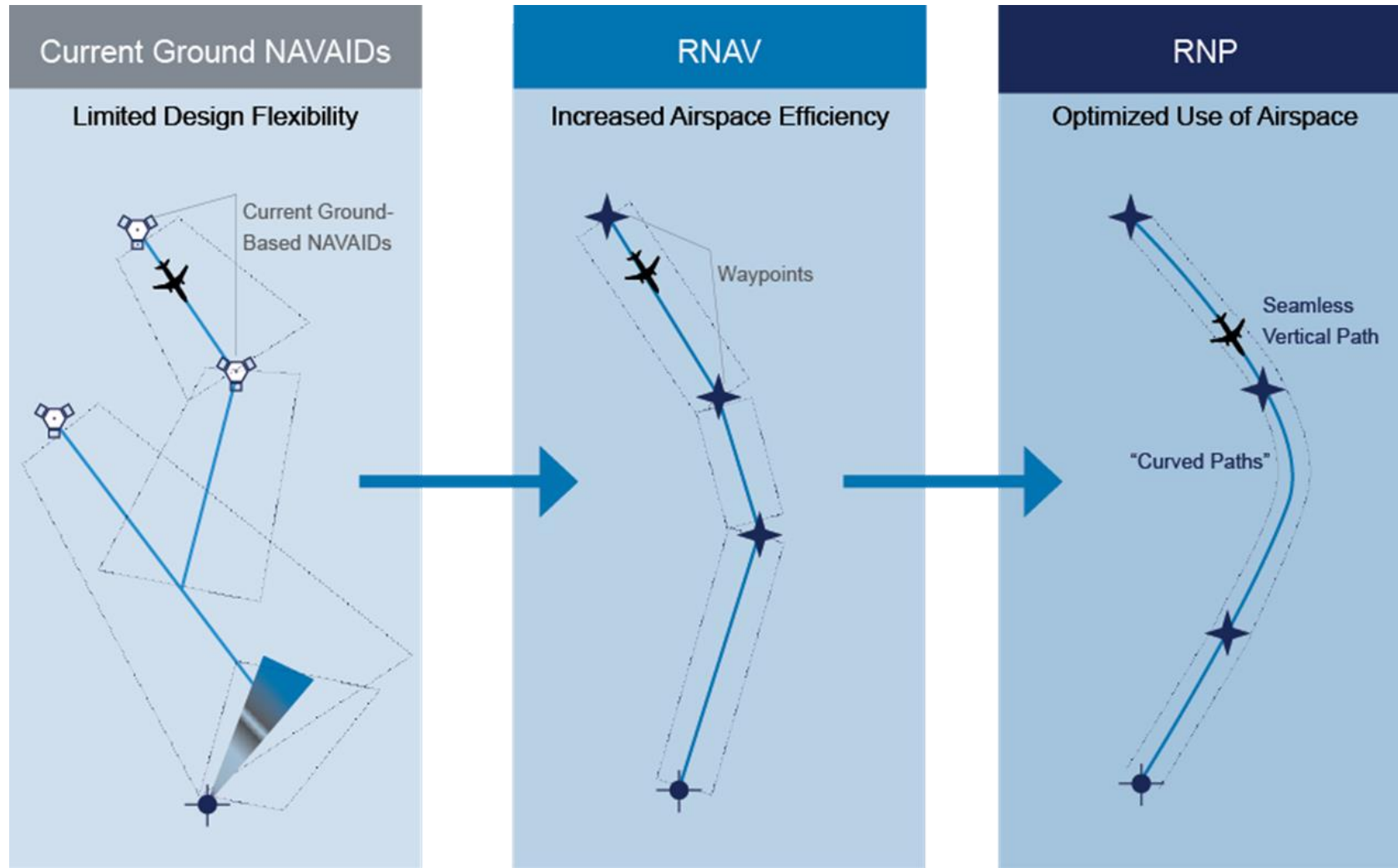


What is NextGen

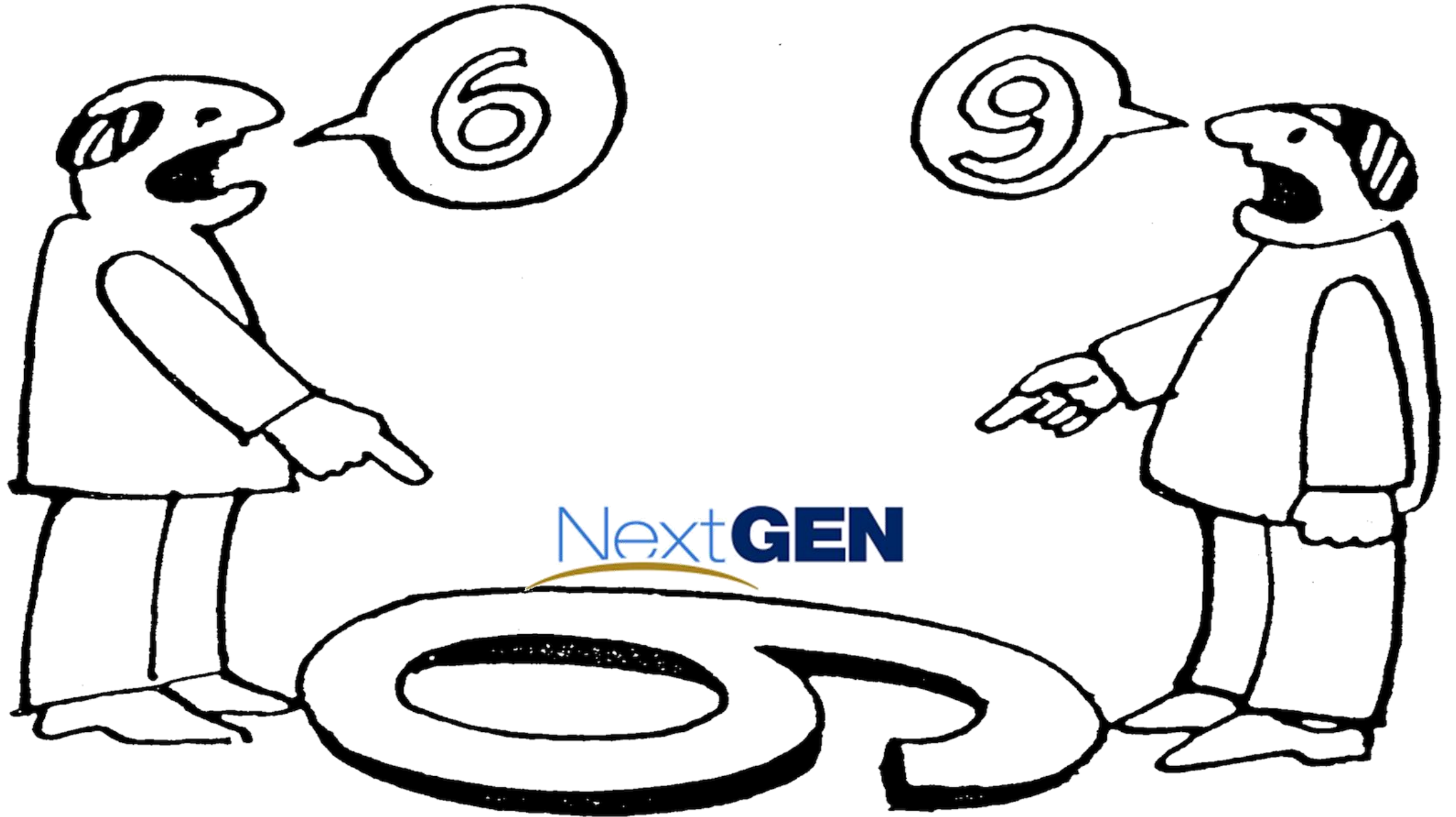
- New routes and flight procedures that take advantage of newer Global Positioning System (“GPS”) and flight computer technologies
- Fly more precise, predictable and concentrated routes, as compared to radar and manual control used for conventional routes.
- Procedures are generally referred to as Next Generation (“NextGen”) or Precision-Based Navigation (“PBN”).



Performance based navigation



How do you view NextGen?



FAA view



Environmental review of NextGen procedures

- FAA regulations allow Environmental Assessment or CatEx
- Based upon noise impact thresholds
- Congressional direction to minimize environmental review
- Highly controversial - litigation
 - N. California
 - Phoenix
 - S. California
 - DC/Maryland

FAA Reauthorization Act of 2018

Lots of studies!

- Section 173: Complete Noise Metric Study (One Year)
- Section 175: Requirement for FAA to Consider Route Dispersion
- Section 176: Report on FAA NextGen Community Engagement (240 days)
- Section 179: Study on Aircraft Speed and Noise (One Year)
- Section 180: Regional Ombudspeople (One Year)
- Section 181: Supersonic Aircraft Integration
- Section 186: Study on Phase 3 Aircraft Phase Out
- Section 187: Complete FAA Community Noise Effect Study (Two Years)
- Section 188: Report on Alternative Noise Metrics (One Year)
- Section 189: Complete Health Effects Study (3 1/2 Years)
- Section 502: Complete study on NextGen status and implementation



Why can NextGen pose a problem?

- Changes to settled expectations
- Technical confusion – what happened and why
- Concentration of flight tracks
- Measurement of impacts – 65 dB CNEL threshold of noise
- Absence of (transparent) public process
- Minimal airport proprietor engagement, involvement



Challenges to FAA NextGen decisions

- No legal or policy ‘silver bullet’
- Direct legal challenge always difficult
 - 60-day statute of limitations
 - Court deference to FAA expertise
 - FAA can rely on its noise thresholds
- Some successes
 - Phoenix (successful lawsuit)
 - Orange County (negotiated solution)
- Political pressure on FAA policy makers

Questions and discussion

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